



CARLISLE

WORTMAN
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Ann Arbor, MI 48104(734) 662-2200
(734) 662-1935 FaxMEMORANDUM

TO: City of Dexter Planning Commission
Michelle Aniol, Community Development Manager

FROM: Doug J. Lewan, City Planner
Laura K. Kreps, City Planner

DATE: December 29, 2015

RE: Non-Conformities Provisions Update

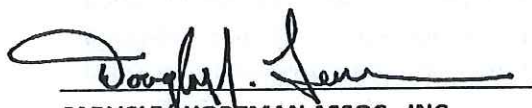
Attached to this communication are the modified Non-Conformities provisions for your review. You will note the following changes have been made:

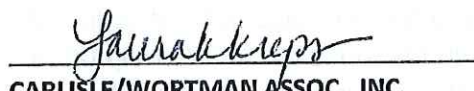
- Definitions have been moved to the definitions chapter.
- The intent of the Article has been modified.
- Other minor corrections have been identified.

We look forward to reviewing these provisions with you at an upcoming Planning Commission work session or meeting. Please feel free to contact us with any questions or comments.

Sincerely,

CARLISLE/WORTMAN ASSOCIATES, INC.


 CARLISLE/WORTMAN ASSOC., INC.
 Douglas J. Lewan, PCP, AICP
 Principal


 CARLISLE/WORTMAN ASSOC., INC.
 Laura K. Kreps, AICP
 Associate

Cc: File

For the purposes of this section, the following words and phrases shall have the meaning assigned to them:

- ~~A. **Effective Date:** Whenever this article refers to the "effective date," the reference shall be deemed to include the effective date of any amendments to this Ordinance if the amendments created a nonconforming situation.~~
- ~~B. **Nonconforming Building:** A building or portion thereof which was lawfully in existence at the effective date of this Ordinance, or amendments thereto, that does not meet the limitations on building size, location on a lot, or other regulations for the district in which such building is located.~~
- ~~C. **Nonconforming Lot:** A lot which was lawfully in existence at the effective date of this Ordinance, or amendments thereto, that does not meet the minimum area or lot dimensional requirements of the district in which the lot is located.~~
- ~~D. **Nonconforming Use:** A use which was lawfully in existence at the effective date of this Ordinance, or amendment thereto, and which does not now conform to the use regulations of this Ordinance for the zoning district in which it is now located.~~
- ~~E. **Structural Nonconformity:** A nonconformity that exists when the height, size, or minimum floor space of a structure, or the relationship between an existing building and existing buildings or lot lines does not conform to the standards of the in which the property is located. Also sometimes referred to as a dimensional nonconformity.~~

Section 4.03-02 ~~NON-CONFORMING~~ LOTS

Any non-conforming lot shall be used only for a use permitted in the district in which it is located. In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Ordinance, a single-family dwelling and customary accessory buildings may be erected on any single lot of record ~~(as defined in Article II of this ordinance)~~ at the effective date of adoption or amendment of this Ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district; provided that yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance requests from district yard requirements may be applied for through the City of Dexter Zoning Board of Appeals.

If two or more lots or combination of lots with contiguous frontage in single ownership are of record at the time of adoption or amendment of this Ordinance, and if all or part of the individual lots do not meet the requirements established for lot width and area, the lots involved shall be considered to be an individual parcel for the purposes of this Ordinance. No portion of said parcel shall be used, occupied, or sold in a manner which diminishes compliance with lot width and area requirements established by this Ordinance, nor shall any division of a parcel be made which creates a lot with width or area less than the

- B. **Restriction on Movement:** Should such structure be moved for any reason or for any distance whatsoever, it shall thereafter conform to the regulations for the district in which it is located after it is relocated or moved.
- C. **Restrictions on Alteration or Modification:** If a non-conforming structure or building is altered or modified so as to eliminate, remove, or lessen any or all of its non-conforming characteristics, then such non-conforming characteristics shall not be later re-established or increased. The Zoning Board of Appeals shall determine if a proposed alteration should decrease the degree of non-conformity.
- D. **Restrictions on Replacements:** Nothing in this Ordinance shall prevent the reconstruction, repair, or restoration and the continued use of any non-conforming structure damaged by fire, collapse, explosion, acts of God or acts of public enemy, subsequent to the effective date of this Ordinance.

-Any non-conforming building which has been damaged substantially or destroyed may be repaired, rebuilt or replaced within ~~eighteen~~ [18] months of such damage or destruction, provided that such repairs or rebuilding or replacement does not extend or expand the previously existing non-conforming structure.

Where pending insurance claims require an extension of time, the Zoning Administrator may grant a time extension provided that the property owner submits a certification from the insurance company attesting to the delay. Until such time as the debris from the fire or act of God is fully removed, the premises shall be fenced and secured from pedestrian or unauthorized access.

Section 4.06-05 NON-CONFORMING USES OF STRUCTURES AND LAND

If a lawful use of a structure, or of structure and land in combination, exists at the effective date of adoption or amendment of this Ordinance, that would not be permitted in the district under the terms of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful subject to the following provisions:

- A. **Prohibition on Enlargement of a Building Housing Non-conforming Use:** No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
- B. **Extension Throughout Building:** Any non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, and which existed at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building.
- C. **Changing Use:** If no structural alterations are made, any non-conforming use of a structure, or structure and land in combination, may be changed to another non-

- B. Illegal Non-conforming Uses: Those alleged non-conforming uses which cannot be proven conclusively to have been in existence prior to the date of the enactment or amendment of this Ordinance shall be declared illegal uses and shall be discontinued following the enactment of this subsection.

Section 4.08-07 USES UNDER EXCEPTION PROVISIONS NOT NON-CONFORMING USES

Any use for which a special exception is permitted as provided in this Ordinance shall not be deemed a non-conforming use, but shall, without further action, be deemed a conforming use in such district.

Section 4.09-08 CHANGE OF TENANCY OR OWNERSHIP

There may be a change of tenancy, ownership, or management of any existing non-conforming uses of land, structures and land in combination provided there is no change in the nature or character of such non-conforming uses except in conformity with the provisions of this Ordinance.

Section 4.10 ACQUISITION OF NON-CONFORMING USES

The City Council may acquire private property, or an interest in private property, to remove a non-conformity, as provided in Act 207, PA of 1921, as amended.

~~Rev. approved 11/27/00~~



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Ann Arbor, MI 48104(734) 662-2200
(734) 662-1935 Fax**MEMORANDUM**

TO: City of Dexter Planning Commission
Michelle Aniol, Community Development Manager

FROM: Doug J. Lewan, City Planner
Laura K. Kreps, City Planner

DATE: December 29, 2015

RE: Administration and Enforcement Provisions Update


Attached to this communication are the modified Administration and Enforcement provisions for your review. You will note the following changes have been made:

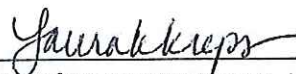
- Purpose has been added.
- Zoning Compliance standards have been reorganized and updated.
- A section noting public notice procedures has been added.
- The performance guarantee section has been moved to this section (previously provided in Site Plan Review).
- New section on Development Agreements.
- Other minor corrections have been identified.

We look forward to reviewing these provisions with you at an upcoming Planning Commission work session or meeting. Please feel free to contact us with any questions or comments.

Sincerely,

CARLISLE/WORTMAN ASSOCIATES, INC.


CARLISLE/WORTMAN ASSOC., INC.
Douglas J. Lewan, PCP, AICP
Principal


CARLISLE/WORTMAN ASSOC., INC.
Laura K. Kreps, AICP
Associate

Cc: File

- F. The Zoning Administrator shall keep official record of applications received, certificates issued, fees collected, reports of inspections, and notices and orders issued.
- G. The Zoning Administrator shall submit to the City Council a quarterly report in which a summary of the activities of the office is presented.

Section 22.04 - CERTIFICATE OF ZONING COMPLIANCE

A. Purpose. The certificate of zoning compliance signifies that, in the opinion of the Zoning Administrator, the intended use, building or structure complies with all provisions of this Ordinance. No building permit shall be issued unless certificates of zoning compliance have been issued. It shall be unlawful to change a type of use of land, to change the type of use or occupancy of any building or structure, or to extend any use on any lot on which there is a non-conforming use or structure, until a certificate of zoning compliance has been issued. No occupancy permit shall be issued for any lot, building, or structure that does not have a certificate of zoning compliance.

B. ~~A.~~ Requirements.

1. Applications for certificates of zoning compliance shall be made to the Zoning Administrator. Each application shall include a description of the proposed use, specifications including a dimensional plot plan or site plan as required in Section 21.04 herein, ~~and all~~ or any other -information requested by the Zoning Administrator necessary to determine zoning compliance. The Zoning Administrator may waive information requirements that do not affect compliance with the Ordinance. The Zoning Administrator shall retain the original documents in accordance with the Township's document retention policy.

~~B. All plans to be submitted for a building permit shall first be submitted for review and approval by the Zoning Administrator with respect to the requirements of this Ordinance. No building permit shall be issued unless a certificate of zoning compliance has been issued by the Zoning Administrator for the same development and is in effect.~~

~~C. 2. A certificate of zoning compliance shall not be issued for any use or structure unless said use or structure and the lot on which situated meet all requirements of this Ordinance. However, a A certificate of zoning compliance shall be issued for a use or structure and the lot on which situated in which one or more legal non-conformities exist. In such case, the certificate of zoning compliance shall clearly list each ~~and every~~ legal non-conformity. A certificate of zoning compliance shall not be issued for any use or structure and the lot on which situated if any illegal non-conformity exists thereon.~~

~~I. Issuance of a certificate of zoning compliance shall be subject to the following conditions.~~

~~1. No certificate shall be issued until the required fees have been paid.~~

~~2. All work or use shall conform to the approved application and plans for which the certificate has been issued and any approved amendments thereto.~~

~~3. All work or use shall conform to the approved final site plan, if required.~~

~~J. An application for a certificate of zoning compliance shall be accompanied either by a site plan as required in this Section, or by a site plan as required under Article XXI, herein, Site Plan Review, whichever applies. If a site plan is not required under Article XXI, herein, a plot plan shall be submitted as required in this Section. Such plan shall be drawn to scale, submitted in two (2) copies, and shall provide the following information:~~

~~1. scale, date and north point;~~

~~2. location, shape and dimensions of the lot;~~

~~3. dimensioned location, outline, and dimensions of all existing and proposed structures and the location and extent of all uses not involving structures;~~

~~4. a clear description of existing and intended uses of all structures; and~~

~~5. additional information as required by the Zoning Administrator for purposes of determining compliance with this ordinance.~~

Section 22.04-05 - BUILDING PERMITS

No building permit shall be issued for the erection, alteration, moving or repair of any structure or part thereof which does not comply with all provisions of this Ordinance and unless a certificate of zoning compliance has been issued therefore by the Zoning Administrator and is in effect. No structure shall be erected, moved, added to, or structurally altered unless a building permit shall have been issued therefore by the Zoning Administrator.

Section 22.05-06 - CERTIFICATES OF OCCUPANCY

A. **General Requirement.** ~~It shall be unlawful to use or occupy or to permit the use or final zoning compliance of any structure or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a certificate of final zoning compliance shall~~

under this ordinance and said records shall be open for public inspection.

Section 22.08 NOTICES

Except as otherwise provided below, notices of hearings regarding zoning amendments, special land uses, and matters before the Zoning Board of Appeals shall be provided as required by the Zoning Enabling Act as follows:

- A. **Newspaper Notice.** A notice shall be published in a newspaper of general circulation in the City At least 15 days before the hearing.
- B. **Notice Requirements.** At least 15 days before the hearing, notices shall be mailed or hand-delivered to the following:
1. The applicant and the owner(s) of the property, if the applicant is not the owner.
 2. All persons to whom real property is assessed within 300 feet of the property for which approval has been requested, as shown by the latest assessment roll, regardless of whether the owner and property is located within the City.
 3. The occupants of any structures within 300 feet of the boundary for the property for which the approval has been requested, regardless of whether the owner and property is located within the City, except as set forth in Section 22.08 B.4.
 4. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different persons, one occupant of each unit or spatial area shall be given notice. If a single structure contains more than four dwelling units or other distinct spatial areas owned or leased by different persons, notice may be given to the manager or owner of the structure, who shall be requested to post the notice at the primary entrance to the structure.
 5. The notice under Section 22.08 is considered to be given when personally delivered or when deposited during normal business hours for delivery with the United States Postal Service, or other public or private delivery service. If the name of the occupant is not known, the term "occupant" may be used for the intended recipient of the notice.
- C. **Exemption.** Actions exempt from notification:
1. Requirements for individual notice to property owners shall not apply to Ordinance text amendments.
 2. Requirement for individual as set forth in Section 3.05.B. does not apply to

procedure for removing or abating a violation of the Zoning Ordinance. Upon verification that a Zoning Ordinance violation exists, the Zoning Administrator shall:

1. Give notice of violation by mail or in person to the property owner and the property possessor/occupant (if any). Such notice shall identify the subject property, identify the nature of the violation and the applicable parts of the Zoning Ordinance, direct the discontinuance of the violation, and specify the time period, which will be allowed for abatement of the violation. Or,
2. Issue a "Stop Work Order" if any one of the following apply:
 - a. A zoning permit has not been issued.
 - b. Work in progress does not comply with the plan of the zoning permit.

The stop work order shall contain the same information required for the notice of violation (paragraph A.1., above). In addition the stop work order shall contain the time of day that the order is issued, shall order all persons to stop work immediately, and shall state that failure to comply with the order or removal of the posted order may result in criminal prosecution. If work is progressing at the time of issuance of the stop work order, the order shall be shown to all persons performing work. A copy of the order shall be posted on the property at a point visible from the street and shall be of a distinctive bright color.

The Zoning Administrator shall cancel a notice of violation or remove and cancel a stop work order when his/her re-inspection confirms that the violation originally cited has been abated and that no new violation exists. A copy of the cancellation will be mailed or hand delivered to the property owner and the occupant if different from the owner.

- B. If work continues after posting of the stop work order or the noted violation has not be rectified within the time period afforded, the Zoning Administrator is authorized to issue a Municipal Civil Infraction violation notice per Section 22-9 of the City of Dexter General Code. Any person who violates any provision of this section shall be responsible for a municipal civil infraction, subject to payment of a civil fine as set forth in Section 22-9 of the City of Dexter General Code.
- C. **Public Nuisance Per Se.** ~~---~~ Any structure which is erected, altered, or converted, or any use of any structure or lot which is commenced or changed after the effective date of this Ordinance, in violation of any of the provisions herein, is declared to be a public nuisance per se, and may be abated by order of any court of competent jurisdiction.

Section 22.11 PERFORMANCE GUARANTEE

proposed development, but shall at a minimum provide the following terms:

1. A survey of the acreage involved in the proposed development.
2. A description of the ownership of the subject property.
3. A land use description, including a specific description of the proposed uses, density, lot dimensions, setbacks, and other dimensional standards.
4. Proposed method of dedication or mechanism to protect areas designated as common areas, open spaces, or conservation areas.
5. Description of required improvements to common areas, recreational facilities, and non-motorized pathways.
6. General description of any improvements to roads or utilities.
7. Mechanisms to ensure the continued maintenance of common areas, including but not limited to roadways, sidewalks, lighting, landscaping, utilities, and other site improvements.
8. Provisions assuring that open space areas shown on the plan for use by the public or residents of the development will be irrevocably committed for that purpose. The City may require conveyances or other documents to be placed in escrow to accomplish this.
9. Provisions for the future financing of any improvement shown on the plan as site improvements, open space areas, and common areas, which are to be included within the development, and that maintenance of such improvements is assured by means satisfactory to the City.
10. Provisions to ensure adequate protection of natural features.
11. Financial assurances in accordance with Section 22.11 Performance Guarantee, to guarantee the completion of all site improvements.
12. Requirements that the applicant maintain insurance coverage during development in amounts established by the City, naming the City as an additional insured, and required insurance provisions after the development is completed.
13. The site plan, special land use, planned unit development, or conditional rezoning shall be incorporated by reference and attached as an exhibit.
14. Description of the timing to complete the development of the project. If the project is to be developed in phases, a timeline to complete the construction of each phase.



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TO: City of Dexter Planning Commission
Michelle Aniol, Community Development Manager

FROM: Doug J. Lewan, City Planner
Laura K. Kreps, City Planner

DATE: December 29, 2015

RE: Zoning Board of Appeals Revised Provisions

Attached to this communication are revised Zoning Board of Appeals provisions for your review. Modifications are based on the Michigan Zoning Enabling Act, as well as reorganization of the chapter. Specific changes include:

- Changing "Board of Zoning Appeals" to "Zoning Board of Appeals" as provided by statute.
- Adding a new section devoted to membership and terms.
- Reorganizing the section devoted to Jurisdiction to include all actions under the ZBA's authority.
- Removal of the notification section. A reference to the section where public notification provisions are found has been added.

We look forward to reviewing these provisions with you at an upcoming Planning Commission work session or meeting. Please feel free to contact us with any questions or comments.

Sincerely,

CARLISLE/WORTMAN ASSOCIATES, INC.

CARLISLE/WORTMAN ASSOC., INC.
Douglas J. Lewan, PCP, AICP
Principal

CARLISLE/WORTMAN ASSOC., INC.
Laura K. Kreps, AICP
Associate

Cc: File

Article XXIV

~~BOARD OF ZONING~~ ZONING BOARD OF APPEALS

Section 24.01 CREATION ~~AND MEMBERSHIP~~

A Zoning Board of Appeals is hereby established, ~~and shall consist of not less than five members and two alternate members to be appointed by the legislative body,~~ in accordance with Act 110, P.A. 2006, as amended. ~~Vacancies shall be filled by resolution of the Council for any expired term of the vacant term. One member of the Board shall be a member of the Planning Commission and City Council.~~

Section 24.02 MEMBERSHIP AND TERMS

- A. Number of Members. The Zoning Board of Appeals shall consist of not less than five members and two alternate members to be appointed by the legislative body, and shall be composed of the following five members whose terms shall be as stated:
1. One member shall be a member of the Planning Commission and one member shall be a member of the City Council. The member of the City Council that serves on the Zoning Board of Appeals shall not serve as chairperson of the Zoning Board of Appeals.
 2. The remaining regular and any alternate members of the Zoning Board of Appeals shall be selected from the electors residing within the City. The members selected shall be representative of the population distribution and of the various interests present in the City.
- B. Terms of Office. The term of office for each member shall be for three years except for members serving because of their membership on the Planning Commission or City Council, whose terms shall be limited to the time they are members of the Planning Commission or City Council respectively, and the period stated in the resolution appointing them, whichever is shorter. A successor shall be selected and appointed by resolution of the City Council for any unexpired vacated position.
- C. Employees/Contractors as Members. An employee or contractor of the City Council shall not serve as a member of the Zoning Board of Appeals.
- D. Removal of Members / Conflict of Interest.
1. The City Council shall provide for the removal of a member of the Zoning Board of Appeals for misfeasance, malfeasance or nonfeasance in office upon written charges and after a public hearing.

2. A member of the Zoning Board of Appeals shall disqualify herself or himself from a vote in which the member has a conflict of interest. Failure of a member to disqualify herself or himself from a vote in which the member has a conflict of interest constitutes malfeasance in office.

E. Alternate Members. The City Council may appoint not more than two alternate members for the same term as regular members of the Zoning Board of Appeals. An alternate member may be called to serve as a member of the Zoning Board of Appeals in the absence of a regular member, if the regular member will be unable to attend one or more meetings. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member having been appointed shall serve in the case until a final decision is made. The alternate member shall have the same voting rights as a regular member of the Zoning Board of Appeals.

SECTION 24.03 MEETINGS

All meetings of the ~~Board of~~ Zoning Board of Appeals shall be held at the call of the Chairperson and at such times as the Zoning Board of Appeals may determine. All hearings conducted by the ~~Board of~~ Zoning Board of Appeals shall be open to the public. The Secretary, or his representative, shall keep minutes of the proceedings, recording the vote of each member upon each question, and indicating absences and abstentions, and shall keep records of hearings and other official action. The ~~Board of~~ Zoning Board of Appeals shall have the power to subpoena and require the attendance of witnesses, administer oaths, and compel testimony and the production of books, papers, files, and other evidence pertinent to the matters before it. The Zoning Board of Appeals shall not conduct business unless a majority of the members of the Board are present.

Section 24.~~03~~04 APPEAL

An appeal may be taken to the ~~Board of~~ Zoning Board of Appeals by any person, firm or corporation, or by any officer, department, board, council or bureau affected by a decision of the Zoning Administrator. Such appeal shall be in writing and taken within such time as shall be prescribed by the ~~Board of~~ Zoning Board of Appeals, by filing with the Zoning Administrator and with the ~~Board of~~ Zoning Board of Appeals, a Notice of Appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the ~~Board of~~ Zoning Board of Appeals all the documents and records pertaining to the action being appealed.

An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the ~~Board of~~ Zoning Board of Appeals, after notice of appeal has been filed with the Zoning Administrator, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case, the proceedings shall not be stayed otherwise than by a restraining order which may be granted by a court of record.

The ~~Board of~~ Zoning Board of Appeals shall select a reasonable time and place for the hearing of the appeal and give due notice thereof to the parties and shall render a decision on the appeal without unreasonable delay. Any person may appear and testify at the hearing, either in person or by duly authorized agent or attorney.

A fee, as established by the City Council shall be paid to the City Clerk at the time the notice of appeal is filed.

Section 24.~~04~~05 JURISDICTION

A. General Powers. The Zoning Board of Appeals has the power to act on matters as provided in this Article and Public Act 110 of 2006, as amended. The specific powers of the Zoning Board of Appeals are enumerated in this section. ~~The Board of Zoning Appeals shall not have the power to alter or change the zoning district classification of any property, or to make any change in terms of this Ordinance, but shall have power to act on those matters where this Ordinance provides for an administrative review, interpretation, or exception permit and to authorize a variance as defined in this Section and laws of the State of Michigan. Said powers include:~~

B. Delegated Duties. To hear and decide on all matters referred to it upon which it is required to pass under this Ordinance.

C. ~~A. —~~ Administrative Review. ~~To~~ The Zoning Board of Appeals shall hear and decide appeals where it is alleged there is error of law in any order, requirement, decision or determination made by ~~the Zoning Administrator~~ an administrative official or body in the enforcement of the Zoning Ordinance. In exercising the powers set forth in this Article, the Zoning Board of Appeals may reverse or affirm wholly or partly, or may modify the order requirements, decision, or determination appealed from and may make such order, requirements, decision or determination as ought to be made, and to that end shall have all the powers of the zoning official from whom the appeal is taken.

D. Interpretation.

1. The Zoning Board of Appeals shall hear and decide requests for interpretation of this Ordinance or the zoning map, taking into consideration the intent and purpose of this Ordinance and the Master Plan.
2. In an interpretation of the Zoning Map, the Zoning Board of Appeals shall be governed by the rules of interpretation set forth in Section 2.01.
3. A record shall be kept by the Zoning Board of Appeals of all decisions for interpretation of this Ordinance or Zoning Map and land uses which are approved under the terms of this Section. The Zoning Board of Appeals shall request the Planning Commission to review any ordinance amendment it deems necessary.

- E. ~~B. —~~ **Variances:** Where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would involve practical difficulties within the meaning of this Ordinance, the Zoning Board of Appeals shall have power upon appeal in specific cases to authorize such variation or modification of the provisions of this Ordinance with such spirit of this Ordinance and so that public safety and welfare be secured and substantial justice done. No such variance or modification of the provisions of this Ordinance shall be granted unless all of the following facts and conditions exist: ~~To authorize, upon an appeal a variance from the strict application of the provisions of the Zoning Ordinance where, by reason of exceptional narrowness, shallowness, shape, or area of a specific piece of property at the time of enactment of this Ordinance, or by reason of exceptional topographic conditions or other extraordinary or exceptional conditions of such property, the strict application of the regulations enacted would result in peculiar or exceptional practical difficulties upon the owner of such property, provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Zoning Ordinance. In granting or denying a variance, the Board of Zoning Appeals may attach thereto such conditions regarding the location, character, and other features of the proposed uses as it deems reasonable in furtherance of the purpose of this Ordinance. In granting or denying a variance, the Board of Zoning Appeals shall state the grounds upon which it justifies the granting or denying of a variance. A variance to permit a use not otherwise permitted within a zoning district (For example, a "use variance") may not be permitted by the Board of Zoning Appeals.~~
1. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property that do not apply generally to other properties or class of uses in the same district or zone.
 2. That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone and vicinity.
 3. That the granting of such variance or modification will not be materially detrimental to the public welfare or materially injurious to the property or improvements in such zone or district in which the property is located.
 4. That the granting of such variance will not adversely affect the purpose of objectives of the master plan.
 5. Absent exceptional circumstances which would otherwise result in substantial injustice, the circumstances or conditions upon which the variance is based do not result from the actions of the applicant or his predecessors in title.
- F. **Temporary Uses:** The Zoning Board of Appeals may permit, temporary uses not otherwise permitted by Section 3.06, not to exceed 12 months with the granting of one 12-month extension being permissible for uses which do not require the

erection of any site improvement or structure. In considering granting a permit for a temporary use, the Zoning Board of Appeals shall review the following criteria:

1. The granting of the temporary use shall in no way constitute a change in the basic uses permitted in the district nor on the property wherein the temporary use is permitted.
2. The granting of the temporary use shall be granted in writing, stipulating all conditions as to time, nature of development permitted, and arrangements for removing the use at the termination of said temporary permit.
3. All setbacks, land coverage, off-street parking ~~&and~~ lighting, and other requirements to be considered in protecting the public health, safety, peace, morals, comfort, convenience, and general welfare of the inhabitants of the City, shall be made at the discretion of the Board of Zoning ~~Zoning Board of Appeals.~~
4. In classifying uses as not requiring ~~capital~~site improvements and/or structures, the Board of Zoning ~~Zoning Board of Appeals~~ shall determine that they are either demountable structures related to the permitted use of the land; recreation developments, such as, but not limited to: golf-driving ranges and outdoor archery courts; or structures which do not require foundations, heating systems, or sanitary connections.
5. The use shall be in harmony with the general character of the district.
6. No temporary use permit shall be granted without first giving notice to owners of adjacent property and all owners of record listed in the latest assessment roll of the City located within ~~three hundred (300)~~ feet of the area of the request of the time and place of a Public Hearing to be held as further provided for in this Ordinance. Further, the Board of Zoning ~~Zoning Board of Appeals of Zoning Appeals~~ shall seek the review and recommendation of the Planning Commission prior to the taking of any action.

G. **Expansions, Alterations, and Substitutions:** The Zoning Board of Appeals is required to determine whether a non-conforming structure may be enlarged, expanded, or extended or whether a non-conforming use can be substituted. In considering expansions, alterations, and/or substitutions related to non-conforming structures and uses, the Zoning Board of Appeals shall review the following criteria:

1. The reasons for a non-conformity shall be limited to minimum lot area, lot width, required yards, off-street loading and parking requirements, and transition strip and landscape strip requirements. In no case shall a structure that is non-conforming because of ~~due to~~ lot coverage, floor area ratio, lot area per dwelling unit, or height requirements be permitted to expand without removing the existing non-conformity, except as permitted under a variance.

2. The existing and proposed uses of such buildings and structures shall be permitted in the district in which situated.
3. The proposed improvement shall conform to all requirements of the district in which situated.
4. The Board of Appeals shall determine the following in approving a request:
 5. a. ~~that~~ The retention of the non-conforming structure is reasonably necessary for the proposed improvement or that requiring removal of such structure would cause undue hardship;
 6. b. that the proposed enlarged or otherwise improved nonconforming structure will not adversely affect the public health, safety and welfare; and
 7. c. that the proposed improvement is reasonably necessary for continuation of the use on the lot.
58. The Board of Appeals shall have authority to require modification of the non-conformity, where such requirement is reasonable, as a condition ~~for~~ of approval. The Zoning Board of Appeals may attach other conditions ~~for its~~ of approval which it deems necessary to protect the public health, safety, and welfare.
69. All expansions permitted under this Section shall meet all requirements of Article XXI, herein, Site Plan Review, if a site plan is required. The site plan may be a final site plan, and shall be first reviewed by the Planning Commission. Upon completion of its review, the Planning Commission shall transmit the site plan and a summary of its review to the Zoning Board of Appeals. The Zoning Board of Appeals shall then act upon the request and return the site plan and the Board's findings on the request to the Planning Commission for its action.
- B10. A structure which does not conform to zoning ordinance regulation shall not substitute for, or replace, any conforming or non-conforming structure.
- C.11. A non-conforming use of a structure may be substituted for another non-conforming use upon permission by the Zoning Board of Appeals, provided that no structural alterations are made, and provided further, that ~~such~~ such other nonconforming use is more appropriate than the existing non-conforming use in the district in which it is located. The Zoning Board of Appeals may require appropriate conditions and safeguards in accordance with the intent of this Ordinance. A non-conforming use, when superseded by a more appropriate use as provided in this subsection, shall not thereafter be resumed.

Section 24.05-06 STANDARDS FOR VARIANCES AND APPEALS

Variances and appeals shall be granted only in accordance with Michigan Public Act 110 of 2006, as amended, and based on the findings set forth in this section. The extent to which the following criteria apply to a specific case shall be determined by the ~~Board of~~ Zoning Board of Appeals; however, ~~at least one~~ all of the applicable criteria must be found by the Board of Zoning Appeals in order to receive a variance or appeal.

A. ~~Criteria Applicable to Variances, Appeals and Exceptions.~~

1. ~~1.~~ **Practical Difficulties:** Compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk, density, or other dimensional provisions would create practical difficulties, unreasonably prevent the use of the property for a permitted purpose, or render conformity with such restrictions unnecessarily burdensome. The showing of mere inconvenience is insufficient to justify a variance.
2. ~~2.~~ **Substantial Justice:** Granting of a requested variance or appeal would do substantial justice to the applicant as well as to other property owners in the district; or, as an alternative, granting of lesser variance than requested would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.
3. ~~3.~~ **Public Safety and Welfare:** The requested variance or appeal can be granted in such fashion that the spirit of these regulations will be observed and public safety and welfare secured.
4. ~~4.~~ **Extraordinary Circumstances:** There are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property that do not apply generally to other properties or other similar uses in the same zoning district. The conditions resulting in a variance request cannot be self-created.
5. ~~5.~~ **No Safety Hazard or Nuisance:** The granting of a variance or appeal will not increase the hazard of fire or otherwise endanger public safety or create a public nuisance.
6. ~~6.~~ **Relationship to Adjacent Land Uses:** The development permitted upon granting of a variance shall relate harmoniously in a physical and economic sense with adjacent land uses and will not alter the essential character of the neighborhood. In evaluating this criterion, consideration shall be given to prevailing shopping patterns, convenience of access for patrons, continuity of development, and the need for particular services and facilities in specific areas of the City.

B. **Criteria Applicable to Appeals:** The ~~Board of~~ Zoning Board of Appeals shall reverse an order of an Enforcement Official only if it finds that the action or decision appealed (Also refer to Section 24.05A-06A for decision criteria):

1. ~~was~~ Was arbitrary or capricious, or
2. ~~was~~ Was based on an erroneous finding of a material fact, or
3. ~~constituted~~ Constituted an abuse of discretion, or
4. ~~was~~ Was based on erroneous interpretation of the Zoning Ordinance or zoning law.
5. Appeals from denial of Board of Zoning Appeals may be taken to Washtenaw County Circuit Court.

~~C. Exceptions: To hear and decide, in accordance with the provisions of this Ordinance, requests for exceptions, for interpretations of the Zoning Map, and for situations on which this Ordinance specifically authorizes the Board of Zoning Appeals to act. Any exception shall be subject to such conditions as the Board of Zoning Appeals may require to preserve and promote the character of the zoning district in question and otherwise promote the purpose of this Ordinance, including the following (Refer to Section 24.05A for decision criteria):~~

- ~~1. Interpret the provisions of this Ordinance in such a way as to carry out the intent and purpose of the plan, as shown upon the Zoning Map fixing the use districts accompanying and made part of this Ordinance, where street layout actually on the ground varies from the street layout as shown on the map aforesaid.~~
- ~~2. Permit the modification of the automobile parking space or loading space requirements where, in the particular instance, such modification will not be inconsistent with the purpose and intent of such requirements.~~
- ~~3. Permit such modification of the height and area regulations as may be necessary to secure an appropriate improvement of a lot which is shaped such or so located with relation to surrounding development or physical characteristics, that it cannot otherwise be appropriately improved without such modification.~~
- ~~4. Permit modification of obscuring wall requirements only when such modification will not adversely affect or be detrimental to surrounding or adjacent development.~~
- ~~5. Permit, upon proper application, the following character of temporary use, not otherwise permitted by Section 3.06, not to exceed twelve (12) months with the granting of one (1) twelve-month extensions being permissible for~~

~~uses which do not require the erection of any capital improvement of a structural nature.~~

~~The Board of Zoning Appeals, in granting permits for the above temporary uses, shall do so under the following conditions:~~

- ~~1. The granting of the temporary use shall in no way constitute a change in the basic uses permitted in the district nor on the property wherein the temporary use is permitted.~~
 - ~~2. The granting of the temporary use shall be granted in writing, stipulating all conditions as to time, nature of development permitted and arrangements for removing the use at the termination of said temporary permit.~~
 - ~~3. All setbacks, land coverage, off street parking & lighting and other requirements to be considered in protecting the public health, safety, peace, morals, comfort, convenience and general welfare of the inhabitants of the City, shall be made at the discretion of the Board of Zoning Appeals.~~
 - ~~4. In classifying uses as not requiring capital improvement, the Board of Zoning Appeals shall determine that they are either demountable structures related to the permitted use of the land; recreation developments, such as, but not limited to: golf driving ranges and outdoor archery courts; or structures which do not require foundations, heating systems or sanitary connections.~~
 - ~~5. The use shall be in harmony with the general character of the district.~~
 - ~~6. No temporary use permit shall be granted without first giving notice to owners of adjacent property and all owners of record listed in the latest assessment roll of the City located within three hundred (300) foot of the area of the request of the time and place of a Public Hearing to be held as further provided for in this Ordinance. Further, the Board of Zoning Appeals of Zoning Appeals shall seek the review and recommendation of the Planning Commission prior to the taking of any action.~~
- ~~D. Votes required: A 2/3 vote of the members shall be necessary to reverse any order, requirement, decision, or determination of Applicant in matter upon which is authorized by this Ordinance to render a decision. Nothing contained herein shall be construed to give or grant to the Board of Zoning Appeals the power or authority to alter or change this Ordinance or the Zoning Map.~~

Section 24.06 – EXPANSION AND SUBSTITUTIONS

- ~~A. Where the Zoning Board of Appeals is required to determine whether a non-conforming structure may be enlarged, expanded, or extended, the following provisions shall apply.~~

1. ~~The reasons for a nonconformity shall be limited to minimum lot area, lot width, required yards, off street loading and parking requirements, and transition strip and landscape strip requirements. In no case shall a structure that is nonconforming because of lot coverage, floor area ratio, lot area per dwelling unit, or height requirements be permitted to expand without removing the nonconformity, except as permitted under a variance.~~
 - ~~2. The existing and proposed uses of such buildings and structures shall be permitted in the district in which situated.~~
 - ~~3. The proposed improvement shall conform to all requirements of the district in which situated.~~
 - ~~4. The Board of Appeals shall determine the following in approving a request:

 - ~~a. that the retention of the nonconforming structure is reasonably necessary for the proposed improvement or that requiring removal of such structure would cause undue hardship;~~
 - ~~b. that the proposed enlarged or otherwise improved nonconforming structure will not adversely affect the public health, safety and welfare; and~~
 - ~~c. that the proposed improvement is reasonably necessary for continuation of the use on the lot.~~~~
 - ~~5. The Board of Appeals shall have authority to require modification of the nonconformity, where such requirement is reasonable, as a condition for approval. The Board of Appeals may attach other conditions for its approval which it deems necessary to protect the public health, safety and welfare.~~
 - ~~6. All expansions permitted under this Section shall meet all requirements of Article XXI, herein, Site Plan Review, if a site plan is required. The site plan may be a final site plan and shall be first reviewed by the Planning Commission. Upon completion of its review, the Planning Commission shall transmit the site plan and a summary of its review to the Zoning Board of Appeals. The Board of Appeals shall then act upon the request and return the site plan and the Board's findings on the request to the Planning Commission for its action.~~
- ~~B. A structure which does not conform to zoning ordinance regulation shall not substitute for, or replace, any conforming or nonconforming structure.~~
- ~~C. A nonconforming use of a structure may be substituted for another nonconforming use upon permission by the Board of Appeals, provided that no structural alterations are made, and provided further, that such other nonconforming use is more appropriate than the existing nonconforming use in the district in which it is located. The Board of Appeals may require appropriate conditions and safeguards in accordance with the intent of this Ordinance.~~

~~A nonconforming use, when superseded by a more appropriate use as provided in this subsection, shall not thereafter be resumed.~~

Section 24.07 ORDERS

In exercising the above powers, the ~~Board of~~ Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such an order, requirement decision, or determination as ought to be made, and to that end, shall have all the powers of the Zoning Administrator from whom the appeal is taken. However, in the event that the Planning Commission representative has already voted on a matter which is now being appealed to the Zoning Board of Appeals, that member shall abstain from voting.

Votes required: A 2/3 vote of the members shall be necessary to reverse any order, requirement, decision, or determination of the Zoning AdministratorApplicant in matter upon which is authorized by this Ordinance to render a decision. Nothing contained herein shall be construed to give or grant to the Board of Zoning Board of Appeals the power or authority to alter or change this Ordinance or the Zoning Map.

Section 24.08 NOTICE

The ~~Board of~~ Zoning Board of Appeals shall make no determination, except in a specific case, until after a public hearing. Notice of the public hearing shall be published in ~~a newspaper of general circulation within the City.~~the manner required by Section X.XX Notices.

~~Notice shall also be sent by mail or personal delivery to the owners of property for which approval is being considered. Notice shall also be sent to all persons to whom real property is assessed within 300 feet of the property and to the occupants of all structures within 300 feet of the property regardless of whether the property or occupant is located in the zoning jurisdiction.~~

~~The notice shall be given not less than 15 days before the date the application will be considered for approval. If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection. The notice shall do all of the following:~~

- ~~a. Describe the nature of the request.~~
- ~~b. Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.~~
- ~~c. State when and where the request will be considered.~~

- d. ~~Indicate when and where written comments will be received concerning the request.~~

Section 24.09 ~~MISCELLANEOUS~~ EFFECTIVENESS

No order of the ~~Board of~~ Zoning Board of Appeals permitting the erection of a building shall be valid for a period longer than one ~~(1)~~ year, unless a building permit for such erection or alteration is obtained within such period, and such erection or alteration is started and completed in accordance with the terms of such permit.

No order of the ~~Board of~~ Zoning Board of Appeals permitting a use of a building or premises shall be valid for a period longer than one ~~(1)~~ year unless such use is established within such period; provided, however, that where such use permitted is dependent upon the erection or alteration of a building, such order shall continue in force and effect if a building permit for said erection or alteration is obtained within such period, and such erection or alteration is started and completed in accordance with the terms of such permit.

Section 24.10 APPEAL OF BOARD OF ZONING APPEAL DECISION

Any party aggrieved by a decision of the ~~Board of~~ Zoning Board of Appeals may appeal to the Washtenaw County Circuit Court as provided in Act 110 of Public Acts of Michigan of 2006, as amended. An appeal under this section shall be filed within 30 days after the ~~Board of~~ Zoning Board of Appeals certifies its decision in writing or approves the minutes of its decision.

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STAFF REPORT

To: Chairman Kowalski and Planning Commission
Courtney Nicholls, City Manager

From: Michelle Aniol, Community Development Manager

Re: Discussion of Concept Plan for Southwest corner of Grand St & Baker Rd

Date: December 30, 2015

The Pre-application Meeting Committee met with Steve Brouwer and his team, on December 16, 2015. The purpose of the meeting was to review and discuss his concept plan for the southwest corner of Grand St and Baker Road. A copy of the concept plan was emailed to the Planning Commission and City Council, along with a summary of the discussion that took place during the pre-app meeting. Staff has collected and compiled all feedback regarding the concept plan to facilitate discussion with the Planning Commission at its January 4, 2016 worksession.

The worksession will provide the Planning Commission an opportunity to discuss the concept in an informal setting, as well as review the PUD process and requirements. This review of the PUD process/requirements will be beneficial, especially for those members who are new to the Commission. A copy of the flow chart outlining the PUD process accompanies this report.

The following is a summary of the December 16th meeting:

- The concept plan calls for 68 attached residential units. The composition of the units includes:
 - 16 brownstones units in 4 – 2 to 3 story buildings,
 - 8 duplex units in 4 – 1-story buildings and
 - 44 apartments or condo units in 4 – 2 story buildings, separated by courtyards.
- Excess off-street parking was minimized due to each unit having a 1 or 2 car attached garage at grade level. Mr. Brouwer also presented architectural design concepts for each of the housing product types. As you can see, no materials or architectural details were included on the plans.
- The site would most likely be developed in two phases and Steve estimated construction costs in Phase 1 at approximately \$7-8 million.
- Steve proposed to relocate an existing public storm sewer and provide an easement in exchange for two city owned parcels, which square of the site and facilitate on-site stormwater management facilities.
- Steve was asked if he would be willing to provide on-street parking in front of the brownstones on Grand St and he said yes.
- The City Engineer (Patrick Droze) pointed out the existing water main on Grand would need to be upgraded along the entire Grand Street frontage. Steve acknowledged this and figured he would have to loop the system.
- The Planning Consultant (Laura Kreps) was concerned about traffic. Steve was informed a traffic study would be required.

- Steve indicated he has completed all environmental studies (i.e. Phase 1 and 2, BEA and Due-Care Plans) and was seeking to do a TIF to off-set the environmental clean-up costs.
- The Committee and developer discussed current zoning, which is I-1 Limited Industrial. The property could be rezoned and/or developed as a Planned Unit Development (PUD). Steve indicated a preference for the Planned Unit Development process.
- When asked about the community benefits, Steve stated;
 - Removal of obsolete industrial buildings
 - Cleaning up brownfield site
 - Providing tax base
- Steve was asked about the material of construction, and he stated a combination of brick, stone and vinyl siding would be used. He stated he was not willing to use Hardi-plank siding, but LP siding was an option.
- Concerns that were voice by the committee:
 - No public access proposed to Mill Creek
 - Traffic
 - Alignment of Grand and Baker intersection
 - Lack of architectural details
- Initially, Steve indicated a desire to be on February PC meeting for Area Plan review and approval. However, his office has recognized they need more time to prepare. Consequently, a February 1st submittal is anticipated, which means the PC would consider the PUD Application and Area Plan at its March 7, 2016 meeting.

Summary of staff and consultant meeting on December 22nd:

- The intersection of Grand St and Baker Rd is out of alignment (a/k/a geometry). The intersection may need to be widened and another pedestrian crossing north of the intersection should be added. A bump out would be required too.
- Stormwater management – The site is mostly paved/impervious currently. Developer would need to detain an increase in stormwater runoff produced by the proposed development. Patrick advocates for a 25-year storm event. The existing City outfall could be used, provided it is sized accordingly.
- Green infrastructure may be considered, such as leaching basin(s), but only if the soil on site will facilitate ground infiltration.
- Recommending on-street parking on Grand St. Traffic study will be required.
- Staff will contact Jim Carson regarding WAVE bus stop on Baker Road.
- Sewer line on Baker Rd has adequate capacity. Developer will need to run sewer along Grand Street frontage and install as deep as possible. In addition, developer may need to extend public sewer onto site, and it could be dead-ended.
- Water will come of Baker Rd and tie into the existing 8-inch water main at rear (south) of site, and looped through site to tie into water main on Grand St at far northwest edge of property. A new hydrant will be required too.

Density Discussion:

As you will recall, staff consulted Doug Lewan and Laura Kreps (CWA) and PC Chair Matt Kowalski regarding density issues. Staff looked in the master plan and discovered the following:

- o Section 19.02, sub-section A2 requires an applicant to demonstrate density on a parallel plan. The subject site is currently zoned I-1 Limited Industrial. Residential uses are not permitted in the I-1 district.
- o According to Section 19.03, sub-section A.1 the PC/City has the ability to make a determination regarding density in cases where a parcel is not zoned for residential use immediately prior to a PUD rezoning request. Density determination is based on existing and planned residential densities in the surrounding area, the availability of utilities and services, and the natural features and resources of a subject site.
- o The Master Plan designates the subject site as Baker Road Corridor-Mixed-Use. The intent of this designation is to accommodate existing uses, encourage the upgrading of this area through redevelopment, and provide amenities that encourage public transit use. A variety of housing types and higher densities for residential infill projects are identified as desirable land uses for this category and site. NOTE: In staff's December 7th report, the Master Plan designation for the subject site was incorrectly identified as Downtown-Mixed -Use.
- o The Master Plan identifies the Baker Road Corridor Overlay District as the ONLY compatible zoning district to the Baker Road Corridor - Mixed Use Future Land Use category. A minimum lot area for residential use has not been established for the Baker Road Corridor Overlay Zoning District. NOTE: In staff's December 7th report, the compatible zoning district was incorrectly identified as Central Business District.
- o The Master Plan designates property to the north as Multiple Family Residential, property to the south and east (across Baker Road) as Mixed-Use, and property to the west as open space/recreation.
- o Property zoned VR Village Residential abuts the Grand Street/Baker Road site on the north and south. Properties zoned R-1B Single Family Residential – Small Lot and C-1 General Business are located to the east of the subject site, across Baker Road, and PP Public Park property abuts the subject site to the west.
- o The following table is provided, based on the requirements in Article XX, Schedule of Regulations for the VR and R-3 Districts:

Zoning District	Section #	Dwelling Type	Min. Lot Area (sq. ft.)	DU/Acre (43,560/MLA)
VR	20.01	Single Family Detached	7,800	6
VR	20.01	Two-family (attached)	4,500	10
VR	20.01	Multiple Family	9,800	4
R-3 MF	20.01 footnote(1)	Studio/1 Bedroom	3,630	12
R-3 MF	20.01 footnote (1)	2 Bedrooms	4,840	9
R-3 MF	20.01 footnote (1)	3 or more Bedroom	7,260	6

As you can see, unlike the R-3 Multiple Family Residential Zoning District, the VR Village Residential District does not have density provisions for multiple family developments.

Staff and CWA concur that this was likely an oversight in the drafting of the current Ordinance since there are no density standards based upon the size of proposed units in the VR district. Without using the R-3 footnote, multi-family units in the VR district are limited to 9,800 square feet / dwelling unit, which equates to approximately 4 units / acre and is not consistent with the intent of the VR district.

Sixty eight (68) units are proposed on the property's 7 acres, which equates to 4,484 square feet of area per dwelling unit or 10 DU/acre.

Staff has suggested two options for the developer regarding the parallel plan.

- Request the site be rezoned to VR Village Residential while at the same time he applying for PUD Area Plan approval. The developer could then prepare a parallel plan under the VR zoning, using the density established for multiple family dwellings in foot note (1) above, or
- Submit a parallel plan based on the density established for multiple family dwellings.

In addition, staff received the following comments regarding the concept plan:

- "The site would be developed in two phases and Steve estimated construction costs in Phase 1 at approximately \$7-8 million." What provisions are in place in case the phases are not completed in a timely manner? Think the economic downturn we saw in 2005-2012 and the resulting infrastructure and funding issues that had to be addressed. For example, the maintaining of roads in Westridge and Dexter Crossing without homes in place to cover maintenance and reconstruction/repairs, as well as damage due to ongoing and prolonged construction traffic, the Victoria Commons condos that were partially finished, some with open basements and the associated efforts to address the safety and blight issues,
- Steve proposed to relocate an existing public storm sewer and provide an easement in exchange for two city owned parcels..." Did anyone ever check to see if we needed to exchange anything for the easement or if the easement would be granted since it has been in use for as long as anyone can remember?
- "...was seeking to do a TIF to off-set the environmental clean-up costs." Will there be a provision that the TIF costs will be the responsibility of the developer to complete within a specific time if for some reason the TIF funding will not completely pay off within a specific amount of time?
- What guarantees will be in place to ensure taxable status in perpetuity? (The developer indicates a benefit to the community is, "Providing tax base.")
- Are there enough "seats on the bus" for wastewater? When was the last time the taps were reviewed for value? Will taps be specified in the PUD or will they be charged at the prevailing rate when installed?
- What provisions are there for ensuring the infrastructure is properly in place? (We had bellies in sewer drains in Westridge, also stormwater drains that have been collapsing.)
- What is the provision for street lighting, or will the lack of a plan in this area mean that the developer will not install street lighting at the time of construction?
- What provisions will there be in the site development to ensure the intent, design, etc., are completed as presented if there is a change in ownership, or a change in direction of the developer? In Westridge, the developer has stated to multiple homeowners the developer could do, "whatever he wanted," regardless of what the HOA intended. Will there be requirements in place to impose the same restrictions on the developer as there are on other owners?

- Please remember the developer does this for a living and is writing the contract. As such, he can write it to his benefit. I would suggest the City's attorney sit with PC and Council, determine what things the City wants in the agreement, and to have that included in any agreement to develop. Developers will take any and all latitude they can when they want or need to, if they are allowed and they can. Please make sure the proper controls are in place so the people coming to the City in this new development do not feel like they do not have a voice, were taken advantage of, or will not be given fair support. The City should take an ACTIVE role in making sure there are requirements which can be enforced by the City (not by the HOA or the developer's board) as this area is developed.
- As the largest residential infill project in the history of the Village/City I think we need to look at this very thoughtfully and comprehensively. The developer is requesting a PUD for 68 residential units, by far the most dense project in the City. Not that it's a problem per se; it just means we need to look at this carefully.
- Traffic/intersection improvements – The City will require a traffic impact study and look at the re-design of the Baker/Grand intersection in conjunction with this project. It is entirely reasonable to request the developer to help mitigate for the impact of this project. I request we look at the CIP for Baker Road improvements and try to coordinate with our planned improvements.
- Public benefit – This is not a minor PUD, there should be a public benefit more than the minimum required to construct any project on that site with Brownfield funding (if granted). Storm sewer re-location to facilitate re-development is also not a public benefit. On-site amenities for residents?? What about a public path easement to the creek? A small public pocket park overlooking the creek?? Again this is a great opportunity and I feel this could be a true public benefit to both the City AND the development. Certainly redevelopment of a Brownfield site is beneficial, but is there anything more the developer can provide for the benefit of the community?
- Design – Density, is it reasonable? While no Master Plan density exists, how have they justified what they are requesting?? The project was designed in a way to minimize views of a wonderful natural area and use it as basically the private backyard of a couple of residential units. Can we ask him to open the creek shed to more of the residential units, why hide it? It should be an amenity to the whole project. This project seems to be designed to fit into any parcel of land regardless of the immediate neighborhood.
- The bottom line is that this is a major project requesting a PUD and Brownfield funding, I think we have the right/duty to request a high standard of development with a creative approach. This can help set the trend for future development of Baker Road.
- I need to study this more before commenting about density and the PUD in general, but my first thoughts are that these are uninspired generic housing units devoid of character that could be dropped in any suburb. As such, they are not suitable for this location in the City. The site plan ignores Baker Road as a thoroughfare when it should be a primary focus of the development.
- Experience suggests that traffic will not be an issue because of the few number of units and distributed trips.
- Architecture is a little harder for me to comment on.. It seems rather generic, but I know the plans are deliberately vague at this point while they finalize designs. My main comment on architecture is just related to my note earlier that seems like they didn't think much about the actual site or context, it seems designed to fit into anywhere with as many units as possible. It doesn't look like much thought was put into site design.

